

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PATRICK MCCARTHY,

Plaintiff,

Case No. 06-10136

v.

Hon. John Corbett O'Meara

LYNN M. GALLAGHER, *et al.*,

Defendants.

ORDER DENYING MOTIONS FOR SANCTIONS

Before the court are a motion for sanctions filed by Defendants Larry M. Friedberg and Psychological Institutes of Michigan, P.C. and a separate motion for sanctions filed by Defendant Lynn M. Gallagher. Plaintiff submitted a combined response to these motions on May 12, 2006.

As Plaintiff points out, none of the moving defendants complied with the “safe harbor” provisions of Federal Rule of Civil Procedure 11 before filing their motions. Further, both motions were filed after the court dismissed Plaintiff’s complaint on April 18, 2006. Under these circumstances, the court cannot consider Defendants’ motions. See Ridder v. City of Springfield, 109 F.3d 288, 295 (6th Cir. 1997). The Sixth Circuit has held that “sanctions under Rule 11 are unavailable unless the motion for sanctions is served on the opposing party for the full twenty-one day ‘safe harbor’ period before it is filed with or presented to the court; this service and filing must occur prior to final judgment or judicial rejection of the offending contention. Quite clearly then, a party cannot wait until after summary judgment to move for sanctions under Rule 11.” Id. at 297.

Therefore, IT IS HEREBY ORDERED that Larry M. Friedberg and Psychological Institutes of Michigan, P.C.'s April 21, 2006 Motion for Sanctions is DENIED.

IT IS FURTHER ORDERED that Lynn M. Gallagher's April 25, 2006 Motion for Sanctions is DENIED.

s/John Corbett O'Meara
John Corbett O'Meara
United States District Judge

Dated: June 5, 2006